

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE KATIROLL COMPANY INC.,

Plaintiff,

v.

KATI JUNCTION INC., DARPAN BHARARA,
MD AKHTER HOSSAIN, MD JEWEL
HOSSAIN, MD KAMAL HOSSAIN, MD
TARIQUL ISLAM, MD NUR NOBI, SHAIKH
NUHUL ALAM and NURUN NABI
CHOWDHURY,

Defendants.

14 Civ. 1750 (SAS)(HP)

ECF Case

**First Amended Complaint
and Jury Demand**

The Parties, Jurisdiction and Venue

1. Plaintiff, The KatiRoll Company Inc. (also referred to herein as “TKRC”), is a New York corporation having a principal place of business at 222 West 37th Street, 14th Floor, New York, NY 10018.
2. Defendant Kati Junction Inc. is a New York corporation which represented its address to the New York Department of State as 558 Seventh Avenue, New York, NY 10018.
3. Upon information and belief, Kati Junction Inc. opened a take-out style restaurant called KATI JUNCTION at 200 West 40th Street, New York, NY 10018 in February 2014.
4. Upon information and belief, Darpan Bharara is an individual who directs the activities of Kati Junction Inc. at 200 West 40th Street, New York, NY 10018

5. Upon information and belief, Mohamed Akhter Hossain is an individual residing at 3725 81st St Apt 5C, Jackson Heights, NY 11372 and working for Kati Junction Inc. at 200 West 40th Street, New York, NY 10018.

6. Upon information and belief, Mohamed Jewel Hossain is an individual residing at 49-15 Skillman Avenue Apt 1J, Woodside, NY, 11377 and working for Kati Junction Inc. at 200 West 40th Street, New York, NY 10018.

7. Upon information and belief, Mohamed Kamal Hossain is an individual residing at 3725 81st Street, Apt 5C, Jackson Heights, NY 11372 and working for Kati Junction Inc. at 200 West 40th Street, New York, NY 10018.

8. Upon information and belief, Mohamed Tariqul Islam is an individual residing at 23-13 Steinway, Apt 3R, Astoria, NY 11105 and working for Kati Junction Inc. at 200 West 40th Street, New York, NY 10018.

9. Upon information and belief, Mohamed Nur Nobil is an individual residing at 4138 71st Street, 1Fl, Woodside, NY 11377 and working for Kati Junction Inc. at 200 West 40th Street, New York, NY 10018.

10. Upon information and belief, Shaikh Nuhul Alam is an individual residing at 37-19 59th Street, Apt 1A, Woodside, NY 11377 and working for Kati Junction Inc. at 200 West 40th Street, New York, NY 10018.

11. Upon information and belief, Nurun Nabi Chowdhury is an individual residing at 41-26 73rd Street, Apt C-12, Woodside, NY 11377 and working for Kati Junction Inc. at 200 West 40th Street, New York, NY 10018.

12. This is an action for service mark infringement, trade dress infringement and unfair competition pursuant to the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a), and New York General Business Law §§ 133 and 360 and New

York common law and breach of duty of loyalty and contractual agreements pursuant to New York General Business Law §§ 133, 349 and 360 and common law and misappropriation of trade secret and/or confidential and proprietary information.

13. Jurisdiction is conferred by 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338 and 1367.

14. Venue is proper in this judicial district under 28 U.S.C. § 1391.

Service Mark, Trade Dress and Unfair Competition

15. Plaintiff is the owner of United States Registration No. 3,352,040 for the service mark, THE KATI ROLL COMPANY®, for restaurant and carry-out restaurant services in Class 43. That registration is incontestable under 15 U.S.C. §1065. A true and correct copy United States Registration No. 3,352,040 and the acknowledgement of incontestability by the United States Patent and Trademark Office are attached hereto as Exhibit 1.

16. TKRC opened its first restaurant at 99 MacDougal Street in Manhattan in June 2002. It was the first fast food restaurant selling kati rolls in the United States. TKRC currently operates an international chain of four restaurants, three in Manhattan and one in London, England. TKRC operates a restaurant in Manhattan at 49 West 39th Street near the corner of 6th Avenue.

17. Kati Junction is located at 200 West 40th Street, near the corner of 7th Avenue, approximately 3 blocks away from THE KATI ROLL COMPANY® restaurant on West 39th Street.

18. Kati Junction offers restaurant and carry-out restaurant services under the name KATI JUNCTION.

19. All TKRC restaurants use orange and white signage. The restaurants have an orange awning and/or sign with The Kati Roll Company® word mark in white lettering and an orange banner with The Kati Roll Company's design mark and "kati rolls" in white lettering. Below is a photo of TKRC's 39th Street restaurant:



20. Kati Junction Inc.'s restaurant uses orange and white signage with the words, Kati Junction. Below is a photo of the Kati Junction restaurant which a reviewer posted online:



21. The Kati Roll Company® restaurants primarily sell their own unique style of Indian food, using flatbreads (paratha or whole wheat roti) prepared on a griddle and then wrapped around one or more of their specially seasoned fillings such as kebab meats, eggs, cheese, vegetables and potato.

22. Defendants Kati Junction Inc. and Darpan Bharara copied THE KATI ROLL COMPANY® menu nearly word for word for their KATI JUNCTION restaurant, including the names of the menu items and the descriptions of those items. Kati Junction duplicated all 13 rolls The Kati Roll Company® sells. Kati Junction sells all the same menu items as The Kati Roll Company® restaurants and does not offer any kati rolls that it did not copy from The Kati Roll Company®. Below are the two menus: